IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1461 OF 2004.
IN
APPEAL FROM ORDER NO. 641 OF 204.

Popatlal B. Shah & ors. .. Applicants.

V/s.

Lalit Nanji Haria & ors. .. Respondents.

Ms. Patel with Shri Navin Parekh i/b Thakore Jariwala & Co.for the Applicants..

Shri Mahendra Rathod with Manshinde i/b Kishore Dalal for the respondents.

CORAM : V.C.DAGA, J.

DATED : 7.12.2005.

P.C. :

. Heard rival parties.

2. This application is taken out at the instance of the applicants seeking to initiate proceeding under section 195(1)(b) of the Code of Criminal Procedure, 1973 against respondent Nos. 3 and 4 for having committed offences inter alia; under section 193 of the Indian Penal Code, 1860. The foundation of this application is the finding recorded by this Court in Appeal from Order No. 641 of 2004, decided by me on 14.9.2004.

3. This application is opposed by the respondents. Various grounds are set out in counter

affidavit to oppose the application under consideration. Reliance is placed on the judgment of the Supreme Court in the case of **Iqbal Singh Marwah and anr. vs. Meenakshi Marwah and anr. 2005 Cri.L.J. 2161** to oppose the application.

4. Having heard rival parties, without going into the legal nicieties raised by the rival parties, I may mention that finding recorded by this Court in the judgment delivered in the Appeal from Order No. 641 of 2004 and observations made therein are based on prima facie considerations. Those observations are prima facie. They were made at the stage of deciding interim proceeding. In that view of the matter, in my view, at this stage of the proceeding the present civil aplication is premature. However, it would be open for the applicants to seek appropriate relief at the appropriate stage of the proceedings. Rejection of this applicationk will not come in their way.

5. Civil Application is, thus, rejected with no order as to costs.